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10/665,953

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Taeko Ito

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EXAMINER

PASIEWICZ, DANIEL M

ART UNIT

PAPER NUMBER

2622

NOTIFICATION DATE

DELIVERY MODE

03/09/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOPatentCommunications@Morganfinnegan.com
Shopkins@Morganfinnegan.com
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| | | | |
|------------------------------|--|-----------------------------------|--|
| Office Action Summary | Application No. 10/665,953 | Applicant(s) ITO ET AL. | |
| | Examiner DANIEL M. PASIEWICZ | Art Unit 2622 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/7/2009 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 16-19 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,963,363 to Ohmura in view of U.S. Patent Application Publication 2003/0117513 to Anderson.

Art Unit: 2622

5. With respect to **claim 16 Ohmura** discloses, in Fig. 1-11, An imaging apparatus (Fig. 1) comprising: an image capture unit (202) (column 3 lines 46-48); a generating unit (204) that generates authentication data used to authenticate whether image data acquired by the image capture unit is altered (column 3 lines 50-52 and column 10 lines 10-15; where the water mark is the authentication data); a recording unit (206) that records the image data acquired by the image capture unit (202) and the authentication data generated by the generating unit (204) in a removable recording medium (column 3 lines 57-61); a set unit that sets one of a first mode in which the recording unit records the image data acquired by the image capture unit together with the authentication data in the removable recording unit and a second mode in which the recording unit records the image data acquired by the image capture unit without the authentication data in the removable recording medium (column 7 lines 1-7); an input unit (102) that inputs an image capture instruction (column 3 lines 37-38); a display unit (101); and a control unit (209) that controls the display unit (101) (column 4 lines 10-11) in accordance with the mode set by the set unit (column 3 lines 34-37 and column 9 line 43 through column 10 line 2).

6. **Ohmura** does not expressly disclose the control unit controlling the display unit in the first mode so as to display an image relating to the image data which the image capture unit acquired in accordance with the image capture instruction and an additional information indicating that the authentication data is recorded with the image data in response to the image capture instruction, and the control unit controlling the display unit in the second mode so as to display an image relating to the image data which the

Art Unit: 2622

image capture unit acquired in accordance with the image capture instruction but not to display the additional information.

7. However, **Official Notice** (MPEP § 2144.03) is taken that both the concepts and advantages of displaying an indication that an image is watermarked when displaying the image are well known and expected in the art. At the time the invention was made, it would have been obvious to one with ordinary skill in the art to have displayed a presence of water mark indicator when displaying images as in Ohmura so that a user would be able to visually verify the image is protected against copyright infringement when viewing said image.

8. **Ohmura** in view of the Examiner's Official Notice does not disclose displaying the water mark indicator in the fashion as claimed.

9. However, in analogous art, **Anderson** teaches, in Fig. 1-4, a display system in a digital camera (paragraph 25-26) that has a controller (207) to display an image immediately after capture (paragraph 31) along with overlays that comprise information about the image (paragraph 29; where the information comprises things such as overlays and date and time stamps). Therefore, **Anderson** teaches disclose the control unit controlling the display unit in the first mode so as to display an image relating to the image data which the image capture unit acquired in accordance with the image capture instruction and an additional information indicating that the authentication data is recorded with the image data in response to the image capture instruction, and the control unit controlling the display unit in the second mode so as to display an image relating to the image data which the image capture unit acquired in accordance with the

Art Unit: 2622

image capture instruction but not to display the additional information as **Ohmura** discloses attaching watermark information (first mode) or not attaching water mark information (second mode) and indicating the presence of the watermark would then correspond to the mode as it is being instantly reviewed after capture.

10. At the time the invention was made it would have been obvious to one of ordinary skill in the art to have displayed the watermarked image with a watermarked icon as taught by **Ohmura** in view of the Examiner's Official Notice immediately after capture as taught by **Anderson**, for doing so would allow the user immediate review of the picture that was just taken and if they are not satisfied with the picture he/she may simple discard that picture and shoot again (paragraph 31 of Anderson).

11. With respect to **claim 17 Ohmura** in view of **Anderson** teaches wherein the control unit controls the display unit in the first mode so as to display the image relating to the image data acquired by the image capture unit and the additional information before the recording unit records the image data and the authentication data as the review of the image is immediately after capture (see paragraph 31 of **Anderson**).

12. With respect to **claim 18 Ohmura** in view of **Anderson** teaches wherein the generating unit generates the authentication data when the display unit displays the image relating to the image data acquired by the image capture unit and the additional information for similar reasons discussed above with respect to **claim 16**.

13. With respect to **claim 19 Ohmura** in view of **Anderson** teaches a memory (207 of **Ohmura**), wherein the image capture unit acquires the image data in response to the image capture instruction and stores the image data in the memory (column 3 lines 37-

Art Unit: 2622

38 and column 3 lines 57-60), wherein the control unit controls the display unit in the first mode so as to display a reduced image of the image data stored in the memory and the additional information (paragraph 36 of **Anderson**), and wherein the recording unit records the image data stored in the memory with the authentication data in the removable recording medium in the first mode (column 7 lines 1-7 of **Ohmura**).

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- U.S. Patent 6,137,534 to Anderson

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL M. PASIEWICZ whose telephone number is (571)272-5516. The examiner can normally be reached on M-F 9:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571)272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2622

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DMP

February 27, 2009

/Sinh N Tran/

Supervisory Patent Examiner, Art Unit 2622